

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

Case No. 1:07-cr-30034-MC

v.

**STIPULATION AND ORDER TO
AMEND PREVIOUSLY-ENTERED
JUDGMENT**

DAN CHARLES TOMPKINS,

Defendant.

This matter is before the Court on defendant's motion to vacate or correct his sentence pursuant to 28 U.S.C. § 2255. Based on the Supreme Court's decisions in *Johnson v. United States*, 135 S. Ct. 2551 (2015), and *Welch v. United States*, 136 S. Ct. 1257 (2016), and the Ninth Circuit's decision in *United States v. Cisneros*, 826 F.3d 1190 (9th Cir. 2016), and having considered the factors under 18 U.S.C. § 3553(a) and the interests of justice, the parties agree that the judgment in this case should be amended to:

(1) delete references to the Armed Career Criminal Act and 18 U.S.C. § 924(e), and limit the description of defendant's conviction to felon in possession of a firearm in violation of 18 U.S.C. § 922(g);

- (2) reduce the term of imprisonment from 180 months to 120 months;
- (3) reduce the term of supervised release from five years to three years; and
- (4) add the condition of 120 days in a reentry center as a condition of supervised release.

The parties further agree that all other aspects of the original judgment and commitment order should remain the same. The parties anticipate that defendant will be due for release from custody immediately.

The parties further agree that the Statement of Reasons should be amended to reflect a guideline range of 84 to 105 months' incarceration, based on a Total Offense Level 22 and Criminal History Category VI, with grounds for departure or variance based on this settlement.

The parties believe defendant will be due for release upon entry of the amended judgment. To provide the Bureau of Prisons and the United States Probation Office sufficient time to arrange an appropriate re-entry plan, the parties stipulate that the amended judgment should not be effective until fourteen days after the entry of this signed Order, absent an order setting an earlier effective date, upon request of Chief United States Probation Officer John Bodden or his designee.

The defendant has consulted with counsel and agreed to waive his right to a re-sentencing hearing and allocution, and any right he may have to be present for the amendment of his sentence, and stipulates to the provisions above.

Based on the above, and the Court concurring,

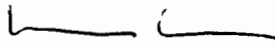
IT IS HEREBY ORDERED that an amended judgment and commitment order shall be prepared and entered, in accordance with the stipulation of the parties, deleting references to the Armed Career Criminal Act and 18 U.S.C. § 924(e) and limiting the description of defendant's conviction to felon in possession of a firearm under 18 U.S.C. § 922(g); deleting the previously-

imposed term of 180 months' imprisonment, and replacing it with a sentence of 120 months; reducing the term of supervised release from five to three years, and adding residence in a reentry center for up to 120 days as a condition of supervised release. All other aspects of the judgment and commitment order previously entered in this case shall remain in full force and effect.

IT IS FURTHER ORDERED that the Statement of Reasons shall be amended to reflect a guideline range of 84 to 105 months' incarceration, based on a Total Offense Level 22 and Criminal History Category VI, with grounds for departure or variance based on this settlement.

IT IS FURTHER ORDERED that the amended judgment shall not be effective until fourteen days from the date this Order is signed and entered, absent a minute order setting an earlier effective date upon request of Chief United States Probation Officer John Bodden or his designee, in order to provide the Bureau of Prisons and the United States Probation Office sufficient time to arrange an appropriate re-entry plan.

Dated this 27 day of December, 2016.



MICHAEL J. MCSHANE
United States District Court Judge

Presented upon agreement of the parties by:

s/ Stephen R. Sady
STEPHEN R. SADY
Chief Deputy Federal Public Defender
Counsel for Defendant

BILLY J. WILLIAMS
United States Attorney

s/ Douglas Fong
DOUGLAS FONG
Assistant United States Attorney